

FIRST REGULAR SESSION

HOUSE BILL NO. 794

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BARTLE AND KELLEY (47) (Co-sponsors).

Read 1st time February 14, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1431L.02I

AN ACT

To repeal section 166.300, RSMo 2000, relating to capital improvement funds for elementary and secondary schools, and to enact in lieu thereof eight new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 166.300, RSMo 2000, is repealed and eight new sections enacted in lieu thereof, to be known as sections 166.300, 166.305, 166.310, 166.315, 166.320, 166.325, 166.330 and 166.335, to read as follows:

166.300. 1. As used in [this section] **sections 166.300 to 166.335**, the following [words and phrases] **terms** shall mean:

(1) ["Capital improvement projects", expenditures for lands or existing buildings, improvements of grounds, construction of buildings, additions to buildings, remodeling of buildings and initial equipment purchases;

(2)] "New Construction", **either the construction of a new building or the addition of a newly constructed area to an existing building. Allowed capital improvement projects for new construction include expenditures for lands or existing buildings, architectural and engineering services, tests and inspections of lands or buildings, construction of buildings, additions to buildings, and technology connectivity;**

(2) "Renovation", **the modernization or modification of any existing building that will enhance the ability of such building to achieve its educational purposes, excluding routine maintenance and repair, and including renovation expenditures for health and safety issues, educational purposes, architectural and engineering services, tests and**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 **inspections of lands or buildings, renovation of existing buildings and technology**
16 **connectivity;**

17 **(3) "School [facility] building",** a structure dedicated primarily to housing teachers and
18 students in the instructional process, but shall not include [buildings] **facilities** dedicated
19 primarily to administrative and support functions within the school **or the school district.**

20 2. There is hereby created a [revolving] fund to be known as the "School Building
21 [Revolving] **Construction and Renovation Fund". All moneys in the school building**
22 **revolving fund on August 28, 2001, shall be transferred on August 28, 2001, to the credit**
23 **of the school building construction and renovation fund.** All forfeitures of assets transferred
24 pursuant to section 166.131, **fifty percent of any moneys received by the state pursuant to**
25 **any tobacco settlement agreement,** all gifts and bequests to such fund, and such moneys as may
26 be appropriated to the fund shall be deposited into the school building [revolving] **construction**
27 **and renovation fund**]; except that no more than four hundred forty million dollars, in the
28 aggregate, shall be transferred to the fund]. **The fund shall be administered by the**
29 **department of elementary and secondary education in the manner described in, and for**
30 **the purposes described in, sections 166.300 to 166.335. Notwithstanding the provisions of**
31 **section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to**
32 **general revenue at the end of the biennium. All interest and moneys of any kind earned on**
33 **the fund shall be credited to the fund.**

34 3. After a fund balance has been established by prior years' deposits and interest, school
35 districts may submit applications for [lease purchases] **matching grants** from the [revolving]
36 fund for [specific] **allowed capital improvement** projects consistent with rules and regulations
37 of the state board of education and [subsection 3 of] this section[, except that]. **The department**
38 **shall divide its annual disbursements of matching grant moneys from the fund in equal,**
39 **fifty percent portions to new construction projects and to renovation projects, and shall**
40 **approve and prioritize applications accordingly, pursuant to this section. School districts**
41 **may apply for both new construction and renovation grants in the same application,**
42 **provided that new construction costs and renovation costs are separately itemized on such**
43 **district's application, so that each may be separately approved or denied by the**
44 **department. If, at the conclusion of the matching grant application period, there are funds**
45 **available for either new construction or renovation that will not be used, and if there is a**
46 **greater need for funds for the other category, then the department may transfer funds to**
47 **the category with greater need at that time.**

48 4. No school district may be permitted to [enter into a lease purchase] **receive matching**
49 **funds** from the school building [revolving] **construction and renovation** fund without first
50 submitting a long-range capital improvements plan. **Such plan shall include a detailed**

51 **proposal of the specific allowed capital improvement projects to which grant moneys will**
52 **be put, and shall include the specific manner in which the school district will provide for**
53 **its matching portion, as such matching portion is calculated pursuant to section 166.305.**
54 **Such plan shall also calculate the estimated amount of the state's portion of the matching**
55 **funds, provided that the department shall not provide a match of funds for any costs of a**
56 **project in excess of the maximum per-pupil amounts described in section 166.310.**
57 **Anticipated district expenditures on projects may exceed the maximum per-pupil amount,**
58 **but in such cases the state portion of matching funds shall be calculated solely on the**
59 **maximum per-pupil amount stated in section 166.310. The department shall review and**
60 **approve such plans prior to issuing matching grants.**

61 [3.] **5. To be eligible for [a lease purchase authorized by this section] matching funds**
62 **pursuant to sections 166.300 to 166.335:**

63 (1) A school district shall meet the minimum criteria for state aid [and for increases in
64 state aid] established pursuant to section 163.021, RSMo;

65 (2) A school district shall provide a program which is accredited by the state board of
66 education for grades kindergarten through twelve or for grades kindergarten through eight; and

67 (3) [A school district shall have an equalized, assessed valuation per eligible pupil for
68 the preceding year which is less than the statewide average equalized, assessed valuation per
69 eligible pupil for the preceding year; and

70 (4) A school district shall have a bonded indebtedness which is no less than ninety
71 percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI
72 of the Constitution of Missouri.] **A school district shall not be experiencing financial stress**
73 **pursuant to section 161.520, RSMo.**

74 **6. The department shall develop minimum state school building standards that may**
75 **be used as criteria to determine if a district qualifies for a new construction project. The**
76 **minimum state school building standards shall be met by any new construction project in**
77 **order to qualify for matching grant approval by the department.**

78 [4. Lease purchase] **7. Matching grant applications for new construction** shall be
79 funded, as funds allow, first for all applications pursuant to subdivision (1) of this subsection
80 [and], then for applications pursuant to subdivision (2) of this subsection and then for
81 applications pursuant to **each successive** subdivision [(3)] of this subsection **thereafter**, and for
82 funding of applications pursuant to a particular subdivision, applications shall be funded in the
83 order that the applications are received by the department. If two or more applications are
84 received on the same day, the district with the lowest [appraised] **assessed** valuation per pupil
85 shall be given priority. Ranking of the applications for offering of [lease purchases] **matching**
86 **grants for new construction** shall be done in the following order:

87 (1) Districts with [capital replacement] **new construction** costs in excess of insurance
88 proceeds due to [facility] **school building** destruction caused by [fire or] natural **or man-made**
89 disaster [shall be ranked on the basis of percentage of bonding capacity];

90 (2) Districts with a cumulative percentage growth in fall membership for the [third
91 through the fifth] **three** preceding years in excess of twelve percent [and which have a bonded
92 indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness
93 pursuant to section 26(b) of article VI of the Constitution of Missouri; and];

94 (3) [Districts with an equalized assessed valuation per pupil which is less than the
95 statewide average equalized assessed valuation per pupil and which have a bonded indebtedness
96 which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to
97 section 26(b) of article VI of the Constitution of Missouri.] **Districts with a cumulative**
98 **percentage growth in fall membership for the three preceding years in excess of nine**
99 **percent;**

100 (4) **Districts with a cumulative percentage growth in fall membership for the three**
101 **preceding years in excess of six percent;**

102 (5) **Districts that are experiencing overcrowding but do not have the percentages**
103 **of required new growth described in subdivisions (1) to (4) of this subsection shall qualify**
104 **based on the same percentage of need as do districts with new growth based on the method**
105 **of calculation developed by the department to determine this percentage of need for**
106 **districts with overcrowding; and**

107 (6) **Districts for which new school buildings, or additions to existing school**
108 **buildings, are needed in order to provide for:**

109 (a) **All-day kindergarten;**

110 (b) **Educational technology;**

111 (c) **Inter-district reorganization;**

112 (d) **Intra-district reorganization; or**

113 (e) **Increased student safety or student health.**

114 **8. The department shall develop minimum state school building standards that may**
115 **be used as criteria to determine if a district qualifies for a renovation project. The**
116 **minimum state school building standards shall be met by any renovation project in order**
117 **to qualify for matching grant approval by the department.**

118 **9. Matching grant applications for renovations shall be funded, as funds allow, first**
119 **for all applications pursuant to subdivision (1) of this subsection, then, with the remaining**
120 **renovation funds, eighty percent of the funds shall be used on applications pursuant to**
121 **subdivision (2) of this subsection and twenty percent of the funds shall be used on**
122 **applications pursuant to subdivision (3) of this subsection. If, at the conclusion of the**

application period, there are funds available from either the allocation to subdivision (2) or to subdivision (3), and if there is a greater need that can be met by transferring the remainder of the unused allocation to the allocation of the other subdivision, then the department may transfer funds to the allocation of the subdivision with the greater need.

10. For purposes of this subsection, the age of the original building for which the renovation grant is being sought shall be considered the age of the entire school building in question, regardless of subsequent renovations prior to the grant application. Ranking of the applications for offering of matching grants for renovation shall be done in the following order:

(1) Districts with renovation costs in excess of insurance proceeds due to school building destruction caused by natural or man-made disaster. Applications in this subdivision shall be funded in the order that the applications are received by the department. If two or more applications are received on the same day, the district with the lowest assessed valuation per pupil shall be given priority;

(2) School facilities that are thirty-five years old or older, ranked from oldest to newest. If two or more buildings are the same age, the applications shall be funded in the order that the applications are received by the department. If two or more applications are received on the same day, the district with the lowest assessed valuation per pupil shall be given priority; and

(3) Buildings that are less than thirty-five years of age shall be ranked according to need, with the criteria for need developed by the department.

If a school district can demonstrate that a building that is fifty years old or older should be replaced instead of renovated, the replacement may be approved by the department with funding from renovation projects for buildings thirty-five years of age or older pursuant to subdivision (2) of this subsection. In order to approve a building replacement in lieu of renovation, the department may consider health and safety issues, a comparison of replacement or renovation costs, future energy savings or other criteria developed by the department. It shall be the school district's responsibility to present information to the department, on department developed forms or format, to demonstrate the need for the building replacement.

11. Each district that:

(1) Receives approval of its grant application pursuant to subsections 3 and 4 of this section;

(2) Is eligible pursuant to subsection 5 of this section; and

(3) Qualifies, pursuant to the funding priorities and availabilities of subsections 6

159 **to 10 of this section, for funding;**

160
161 **shall receive notification from the department within thirty days of its approval, and the**
162 **district shall obtain its portion of the matching funds mandated by section 166.305 within**
163 **one year of the date of its receipt of the notification. Upon obtaining the required matching**
164 **funds, the district shall submit notification to the department, for approval by the**
165 **department on forms created by the department. Such notification shall be given within**
166 **thirty days of obtaining the funds, or as soon as possible prior to the end of the one-year**
167 **period, whichever occurs first. In the event that the district fails to obtain all of its portion**
168 **of the matching funds within the one-year period, the district shall forfeit its right to any**
169 **state matching funds for the school year immediately following such failure, but the district**
170 **shall not be prohibited from resubmitting its application for the school year next following**
171 **such occurrence. Any district receiving a renovation matching grant shall not be eligible**
172 **for another matching grant in any year unless all applications qualifying pursuant to this**
173 **section for that year from districts which have not yet received a grant pursuant to this**
174 **section are funded.**

175 [5.] 12. When **school** building replacement **or renovation** is caused by [fire or] natural
176 **or man-made** disaster, the requirement for a school district to have a long-range capital
177 improvements plan, **as required by subsection 4 of this section**, may be waived by the [state
178 board of education] **department**.

179 [6. Each school district participating in a lease purchase from the school building
180 revolving fund shall repay such lease purchase in no more than ten annual payments made on or
181 before June thirtieth of each year. The first such payment shall be due and payable on June
182 thirtieth of the first full fiscal year following receipt of lease purchase proceeds. Lease purchase
183 repayments shall be immediately deposited to the school building revolving fund by the
184 department. Interest charged to the school district shall not exceed three percent.

185 7. Any school district which fails to obligate the full amount of a loan from the school
186 building revolving fund for the allowable lease purchase must return the unobligated amount plus
187 interest earned to the department no later than June thirtieth of the second full fiscal year after
188 receipt of loan proceeds.

189 8. If a school district fails to make an annual payment to the school building revolving
190 fund after notice of nonpayment by the department, members of the board of education and the
191 school district's superintendent shall have violated section 162.091, RSMo, and the attorney
192 general of the state of Missouri shall be notified by the state board of education to begin
193 prosecution procedures.

194 9. All property purchased pursuant to a lease purchase from the school building

195 revolving fund shall remain the property of the state until such time as the lease purchase has
196 been fully repaid pursuant to this section. If a school district does not make an annual payment
197 to the school building revolving fund after notice of nonpayment by the department, the state
198 board of education may, if the delinquency exceeds one hundred eighty days, take possession of
199 the property. As a part of the lease purchase agreement, the school district shall agree to assume
200 all costs, obligations and liabilities for or arising out of establishment, operation and maintenance
201 of the lease purchase property. Other provisions of law to the contrary notwithstanding, neither
202 the state nor any state agency shall have any obligation for such costs, obligations or liabilities
203 unless and until the state board of education takes possession of the property pursuant to this
204 subsection upon a school district's failure to make annual payments as required in the lease
205 purchase agreement.

206 10. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys
207 in the school building revolving fund shall not be transferred to the credit of the general revenue
208 fund at the end of the biennium. All yield, interest, income, increment or gain received from
209 time deposit of moneys in the state treasury to the credit of the fund shall be credited by the state
210 treasurer to the fund.]

211 **13. The department shall be responsible for the publication of grant applications**
212 **that incorporate the criteria of this section and any additional criteria in accordance with**
213 **this section that the department deems appropriate. Such applications shall be first**
214 **published on or before January 1, 2002, so that the initial applications for such grants may**
215 **be acted upon for the 2002-2003 school year.**

216 **14. State funds provided pursuant to this section shall not be used for lease**
217 **purchases.**

166.305. For the purpose of calculating the matching portion for which a school
2 **district is responsible pursuant to section 166.300, each school district in this state shall be**
3 **assigned a local matching percentage pursuant to this section. All school districts in the**
4 **state shall be rank ordered from lowest to highest based upon the district's equalized,**
5 **assessed valuation per eligible pupil for the second preceding school year. Each district**
6 **will be assigned a unique percentage on a sliding scale which assigns a local match**
7 **percentage of fifty percent to the lowest ranked district and a local match percentage of**
8 **seventy-five percent to the highest ranked district and assigns a unique percentage to all**
9 **remaining districts by assigning to districts percentages which are uniformly spaced across**
10 **the interval from fifty percent to seventy-five percent and based upon the rank ordering.**

166.310. 1. For new construction project grant applications pursuant to section
2 **166.300, the department shall match funds with the applicant district up to the following**
3 **maximum per-pupil match amounts for new construction cost:**

4 (1) Eight thousand dollars per high school student that the project is designed to
5 house;

6 (2) Seven thousand dollars per middle school student that the project is designed
7 to house; and

8 (3) Six thousand dollars per elementary school student that the project is designed
9 to house.

10 2. For renovation project grant applications pursuant to section 166.300, the
11 department shall match funds with the applicant district up to the following maximum per-
12 pupil match amounts for total renovation cost:

13 (1) Five thousand six hundred dollars per high school student to be housed in the
14 renovated school facility or facilities;

15 (2) Four thousand nine hundred dollars per middle school student to be housed in
16 the renovated school facility or facilities; and

17 (3) Four thousand two hundred dollars per elementary school student to be housed
18 in the renovated school facility or facilities.

19 3. The department shall annually adjust the per-pupil apportionment in this section
20 to reflect construction cost changes. For this purpose, the department may adopt the use
21 of the Consumer Price Index for all Urban Consumers for the United States or its successor
22 index, as defined and officially recorded by the United States Department of Labor or its
23 successor entity, or may adopt any other schedule of annual adjustment to accurately
24 reflect such cost changes.

 166.315. Moneys in the school building construction and renovation fund shall be
2 distributed between the first and fifteenth day of July most immediately following the date
3 on which the department receives notification from an approved school district that such
4 district has obtained its portion of the required matching funds pursuant to section
5 166.300. The state board of education shall certify the amounts to be distributed to the
6 several school districts to the commissioner of administration who shall issue the warrants
7 therefor. The funds will be credited to the capital projects fund of the appropriate school
8 district in the amount approved pursuant to sections 166.300 to 166.310. Such moneys
9 shall be used by such district solely for the construction or renovation project for which
10 grant approval was awarded, and shall not be used to retire debt.

 166.320. 1. If any completed allowed project costs more than the estimated final
2 cost submitted to the department by the district, then the district shall be responsible for
3 all of such additional cost.

4 2. If any completed allowed project costs less than the estimated final cost
5 submitted to the department by the district, then the district shall return the department's

6 percentage of such excess funds, and the department shall deposit such funds in the school
7 building construction and renovation fund established in section 166.300.

8 3. Upon completion of any project for which funds were granted pursuant to
9 sections 166.300 to 166.335, the school district shall submit a final report to the
10 department. The department may require an audit of these reports or other district
11 records to ensure that all funds received pursuant to sections 166.300 to 166.335 are
12 expended in accordance with program requirements.

13 4. If the department, after the review of expenditures or audit has been conducted
14 pursuant to this section, determines that a school district failed to expend funds in
15 accordance with this chapter, the department shall notify the school district of the amount
16 that must be repaid to the department within sixty days. If the school district fails to make
17 the required payment within sixty days, the department shall notify the school board and
18 the school district in writing that an amount equal to the unused amount received by the
19 school district shall be withdrawn from such school district's total amount of state aid
20 calculated pursuant to chapter 163, RSMo, for certain subsequent school years, according
21 to a withholding schedule developed by the department for such district.

166.325. The use of state matching grant moneys by a school district shall not make
2 the department or this state liable for any tort, breach of contract or any other action for
3 damages caused by a school district arising from an approved new construction or
4 renovation project by the district, including, but not limited to, contracts between the
5 school district and its construction contractors, construction managers, architects or
6 engineers. The school district shall be liable for all torts, breaches of contract or any other
7 actions for damages caused by the school district.

166.330. 1. All title to all property acquired, constructed or improved with grant
2 moneys pursuant to sections 166.300 to 166.335 shall be held by the school district to which
3 the department grants such moneys.

4 2. The applicant school district shall comply with all laws and rules pertaining to
5 the construction, reconstruction or alteration of, or addition to, school buildings.

166.335. The department of elementary and secondary education shall promulgate
2 such rules and forms as are necessary for the operation of sections 166.300 to 166.335. No
3 rule or portion of a rule promulgated pursuant to sections 166.300 to 166.335 shall take
4 effect unless such rule has been promulgated pursuant to chapter 536, RSMo.